

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

A.M.C., by her next friend, C.D.C., *et al.*,

Plaintiffs,

v.

STEPHEN SMITH, in his official capacity as
Deputy Commissioner of Finance and
Administration and Director of the Division
of TennCare,

Defendant.

Civil Action No. 3:20-cv-00240
Chief District Judge Crenshaw
Magistrate Judge Newbern

DEFENDANT’S MOTION TO DISMISS PLAINTIFFS’ MEDICAID ACT CLAIMS

Pursuant to Local Rule 7.01(a) and Federal Rule of Civil Procedure 54(b), for the reasons set forth in the accompanying memorandum, Defendant Stephen Smith respectfully moves the Court to reconsider its October 18, 2023, Order Denying Defendant’s Motion for Summary Judgment (Doc. 357) (“Summary Judgment Order”) and its August 26, 2024, Memorandum Opinion (Doc. 412) (“Opinion” or “Op.”) to the extent that order and opinion hold that Plaintiffs have an individual right enforceable under 42 U.S.C. § 1983 for violations of the Medicaid Act and that the State is liable under 42 U.S.C. § 1983 for violations of the Medicaid Act. Plaintiffs oppose this motion.

As the accompanying memorandum explores in detail, reconsideration is appropriate and necessary because the U.S. Supreme Court recently held in *Medina v. Planned Parenthood S. Atl.*, 145 S. Ct. 2219 (2025), that the provision of the Medicaid Act upon which Plaintiffs rely, 42 U.S.C. § 1396a(a), (albeit discussing a different subsection of that provision) is not individually enforceable under § 1983. *Medina v. Planned Parenthood S. Atl.*, 145 S. Ct. at 2229. Because

under a straightforward application of *Medina* to the specific subsection of 42 U.S.C. § 1396a(a) at issue in this case, § 1396a(a)(3), it is now clear that Plaintiffs have no “right” based on that provision of the Medicaid Act that can be enforced through § 1983 and this Court’s determination that the State is liable for violations of 42 U.S.C. § 1396a(a)(3) should be vacated and the Court should issue judgment as a matter of law for the State on the Medicaid Act claims.

September 9, 2025

Jonathan Skrmetti
Attorney General and Reporter

Meredith W. Bowen TN BPR #34044
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 20207
Nashville, TN 37202
meredith.bowen@ag.tn.gov

Respectfully submitted,

/s/ Michael W. Kirk
Michael W. Kirk*
Nicole J. Moss*
William Bergstrom*
Athanasia O. Livas**

COOPER & KIRK, PLLC
1523 New Hampshire Avenue, NW
Washington, D.C. 20036
(202) 220-9600
mkirk@cooperkirk.com
nmoss@cooperkirk.com

*Appearing *pro hac vice*

**Application for *pro hac vice* admission
pending

Counsel for the Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via the Court's electronic filing system on this 9th day of September, 2025.

Gordon G. Bonnyman, Jr.
Robert B. Harrell, Sr.
Michele M. Johnson
Vanessa M. Zapata
TENNESSEE JUSTICE CENTER
211 7th Avenue N., Ste. 100
Nashville, TN 37219

Jennifer M. Selendy
Faith E. Gay
Andrew R. Dunlap
Babak Ghafarzade
David A. Coon
Alvaro M. Cureno
Amy Nemetz
Laura M. King
SELENDY & GAY PLLC
1290 Avenue of the Americas
New York, NY 10104

Jane Perkins
NATIONAL HEALTH LAW PROGRAM
200 N. Greensboro St., Ste. D-13
Carrboro, NC 27510

Elizabeth Edwards
Sarah Grusin
NATIONAL HEALTH LAW PROGRAM
1512 East Franklin St., Ste. 110
Chapel Hill, NC 27514

Gregory Lee Bass
NATIONAL CENTER FOR LAW AND
ECONOMIC JUSTICE
275 Seventh Avenue, Suite 1506
New York, NY 10001

/s/ Michael W. Kirk

Michael W. Kirk